

The opinion in support of the decision being entered today was *not* written for publication and is *not* binding precedent of the Board.

## UNITED STATES PATENT AND TRADEMARK OFFICE

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### BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

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*Ex parte* ROBIN TARRY  
and H. LEE BROWNE

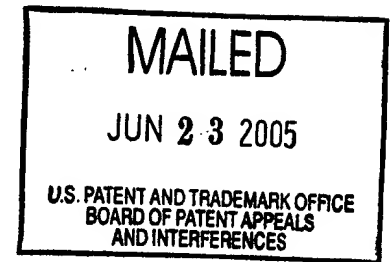
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Appeal No. 2005-1045  
Application No. 09/225,574

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ON BRIEF

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Before OWENS, RUGGIERO, and DIXON, *Administrative Patent Judges*.  
OWENS, *Administrative Patent Judge*.

#### DECISION ON APPEAL

This appeal is from a rejection of claims 38-54, which are all of the pending claims.

#### THE INVENTION

The appellants claim a system and method for providing real-time instructional feedback to a user engaged in an activity such as golf. Claims 38 and 39 are illustrative:

38. As system for providing real-time instructional feedback of a user engaged in an activity comprising:

a video camera forming a real-time video signal of the user engaged in the activity;

a processor generating an instructional signal;

a video controller for receiving the instructional signal and the real-time video signal and combining the received signals to form a composite video signal with an instructional image

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superimposed onto an image of the user engaged in the activity;  
and

a first display device displaying the composite video signal to the user in a manner that allows the user to perform the activity while viewing the displayed signal.

39. The system of claim 38, wherein the first display device includes a head-mounted display.

#### *THE REFERENCES*

|                   |             |               |
|-------------------|-------------|---------------|
| Mann              | 5,184,295   | Feb. 2, 1993  |
| Brostedt          | WO 98/25250 | Jun. 11, 1998 |
| (PCT application) |             |               |

#### *THE REJECTIONS*

The claims stand rejected as follows: claims 38, 40-42, 46-48, 50, 51 and 54 under 35 U.S.C. § 102(b) as anticipated by Mann, and claims 39, 43-45, 49,<sup>1</sup> 52 and 53 under 35 U.S.C. § 103 as obvious over Mann in view of Brostedt.

#### *OPINION*

We affirm the aforementioned rejections.

The appellants state that the claims stand or fall in two groups: 1) claims 38, 40-42, 46-48, 50, 51 and 54, and 2) claims 39, 43-45, 49,<sup>2</sup> 52 and 53. We therefore limit our

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<sup>1</sup> Claim 49 is omitted from the statement of the rejection. The similarity of claim 49 to claim 39, which is included in the rejection, indicates that this omission was inadvertent.

<sup>2</sup> The appellants apparently inadvertently omit claim 49 from the grouping of claims. We include claim 49 in the group in  
(continued...)

discussion to one claim in each group, i.e., claims 38 and 39.  
See *In re Ochiai*, 71 F.3d 1565, 1566 n.2, 37 USPQ2d 1127, 1129  
n.2 (Fed. Cir. 1995); 37 CFR § 1.192(c)(7)(1997).

*Claim 38*

Mann discloses a system and method for teaching a student a physical skill, particularly golf, by overlaying, in a video display, a model having the physical characteristics of the student on an image of the student performing the physical skill (col. 1, lines 10-17; col. 2, line 66 - col. 3, line 1; col. 3, lines 29-31). The model is computer generated and includes the composite average movements of a set of elite performers capable of superior performance of the skill (col. 3, lines 37-43). The student learns the physical skill by comparing the action of the model to the image of the student and correcting the student's movement to coincide with the model's movement (col. 3, lines 33-37; col. 13, lines 39-62; col. 33, lines 35-37 and 55-56; col. 34, lines 41-44 and 53-62; col. 35, lines 23-24).

The appellants argue that Mann uses a video recording of a student performing an activity in the past, not in real time, and

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<sup>2</sup>(...continued)  
which its subject matter indicates it belongs.

that, therefore, the student is unable to receive real-time instructional feedback as the student performs the activity (brief, pages 6-7; reply brief, page 4).

During patent prosecution, claims are to be given their broadest reasonable interpretation consistent with the specification, as the claim language would have been read by one of ordinary skill in the art in view of the specification and prior art. See *In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989); *In re Sneed*, 710 F.2d 1544, 1548, 218 USPQ 385, 388 (Fed. Cir. 1983). The appellants are interpreting their claim 38 as though the activity recited throughout the claim is limited to a single act. The appellants' claims do not limit the activity in that manner, and the appellants' specification does not define "activity". Hence, we use the relevant dictionary definition of "activity", which is "[a] specified form of supervised action or field of action, as in education or recreation".<sup>3</sup> Thus, the activity in the appellants' claim 38 is a field of action, for example, golf.

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<sup>3</sup> *Webster's II New Riverside University Dictionary* 76 (Riverside 1984). A copy of this dictionary definition is provided to the appellants with this decision.

Mann's video camera forms a real-time video signal of a student engaged in golf. When the student views the video while trying to match the model superimposed on the student in the video, the student is receiving real-time instructional feedback of the student in the video engaged in the activity of golf and is performing the activity of golf.

Therefore, we are not convinced of reversible error in the examiner's rejection of claim 38 over the applied prior art. Accordingly, we affirm the rejection of that claim and claims 40-42, 46-48, 50, 51 and 54 that stand or fall therewith.

*Claim 39*

Brostedt discloses displaying a video of a golf instructor on video glasses worn by a student, and teaches that the glasses eliminate the need for the student to change the student's field of vision to view a video monitor (page 3, line 33 - page 4, line 5).

The appellants argue that one of ordinary skill in the art would not have been motivated to combine Brostedt with Mann because Brostedt's goal is for a student to compare the student's performance with an actual instructor and not a simulated model, whereas Mann uses complex processing operations to match an

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individual performance model to a student's performance (brief, page 9; reply brief, page 5). Mann discloses that the student views an image of the student and instructor in a monitor (col. 34, lines 41-44). Brostedt, therefore, would have fairly suggested, to one of ordinary skill in the art, using Brostedt's glasses in Mann's method and system to provide the benefit disclosed by Brostedt of eliminating the need for the student to change the student's field of vision to view the monitor (page 4, lines 3-5).

We therefore affirm the rejection of claim 39 and claims 43-45, 49, 52 and 53 that stand or fall therewith.

#### *DECISION*

The rejections of claims 38, 40-42, 46-48, 50, 51 and 54 under 35 U.S.C. § 102(b) over Mann, and claims 39, 43-45, 49, 52 and 53 under 35 U.S.C. § 103 over Mann in view of Brostedt, are affirmed.

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No time period for taking any subsequent action in  
connection with this appeal may be extended under 37 CFR  
§ 1.136(a).

*AFFIRMED*

*Terry J. Owens*  
TERRY J. OWENS )  
Administrative Patent Judge )

*Joseph F. Ruggiero*  
JOSEPH F. RUGGIERO )  
Administrative Patent Judge )

*Joseph L. Dixon*  
JOSEPH L. DIXON )  
Administrative Patent Judge )

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FINNEGAN, HENDERSON, FARABOW  
GARRETT & DUNNER, L.L.P.  
901 NEW YORK AVENUE, N.W.  
WASHINGTON, DC 20001-4413